



Office of the City Attorney

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July 24, 2019

Via email:

Samuel Sinyangwe

MuckRock News

DEPT MR 60948

411A Highland Avenue

Somerville, MA 02144-2516

Email: 77423-51448792@requests.muckrock.com

Re: Public Records Act Request Dated July 17, 2019

Dear Mr. Singyangwe:

This letter is to respond to your Public Records Act request which was received by the Fremont Police Department on July 17, 2019 requesting records pertaining to the use of force.

To the extent that the requests seek documents containing information gathered as part of an individual criminal investigation case file or intelligence file, these records are exempt from disclosure under Government Code Section 6254(f). To the extent the requests seek records that are not part of an individual criminal investigation or intelligence file but would reveal the City's operational/technical strategies, the public interest in not disclosing the information outweighs the public interest in disclosing, since releasing such records to the public would jeopardize public safety, the safety of allied public safety agencies and the ability of the police to safely implement safety and security measures to protect the community. Furthermore, disclosure of this information to the public would allow individuals to defeat or avoid the City's efforts regarding public and officer safety, property protection, and apprehension of fleeing suspects. As a result, this information is exempt from disclosure under Government Code Section 6255 and Evidence Code Section 1040(b)(2).

To the extent the request seeks documents that are copyrighted work or contain copyrighted work, federal law limits the reproduction by the City under the Copyright Act, 17 USC § 101 *et seq.* The City requires a waiver or permission from the copyright owner before reproducing copyrighted works. To the extent the request seeks documents containing business or industry information protected by the trade secret privilege, the City cannot disclose the information pursuant to Civil Code §3426.1.

To the extent that your request seeks documents that are drafts, these records are exempt from disclosure under Government Code section 6254(a) because the public interest in non-disclosure of working drafts outweighs the public interest in disclosure at this time because more iterations will likely be made as more information is developed and the drafts are not the final decisions of the City.

To the extent that the request seeks documents that are part of a police officer's personnel file, these records are exempt from disclosure under Penal Code sections 832.7 and 832.8 and Evidence Code sections 1043 – 1045.



To the extent that the request seeks information contained in personnel files and medical records, including identifiable health information, these records are exempt from disclosure under Government Code section 6254(c).

To the extent that the requests seeks information that falls within the attorney-client privilege, deliberative process privileges, attorney work product, and pending and active litigation exception, these records are exempt from disclosure under Government Code sections 6254(b), 6254(k), and 6255 and Evidence Code sections 1040, 952, and 954. In addition, drafts, notes or intra-agency memoranda are also exempt from disclosure under Government Code Section 6254(a) and have not been included.

To the extent that the request seeks information that is not contained in identifiable records, the Public Records Act does not impose a duty on the City to create a record to respond to your request.

Notwithstanding the foregoing, the City has located documents that the City believes may be responsive to your requests or of interest to you that the City can disclose. Those documents are identified in the responses to your individual requests below.

Request No. 1. The total number of police uses of force in 2018, broken down by type of force used (i.e. number of uses of tasers, number of uses of baton, etc.)

<u>Type of force</u>	<u>Total #</u>
ACT overcome resistance	101
Asp	1
Baton	9
Canine	20
Flexible Baton	4
Hand Strikes	26
Handgun	10
Other Striking Object	4
Pepperball	1
PIT	3
Rifle	1
TakeDown Maneuvers	89
Taser	26
VCT with contact	10

Request No. 2. The total number of use of force complaints reported by civilians in 2018

The City has no responsive documents.

Request No. 3. The total number of use of force complaints reported by civilians that were sustained in 2018.

The City has no responsive documents.

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Request No. 4. All arrests data reported to the California Department of Justice via the Monthly Arrests and Citation Register program covering arrests made in 2017 and 2018, including (but not limited to) the age, race/ethnicity, gender, offense category (felony, misdemeanor, status offense), charge and disposition of arrestees.

The City has 523 pages of responsive documents that are not exempt from disclosure as stated above. If you would like copies of the hand redacted records, please mail a check made out to the City of Fremont in the amount of \$52.30. If you would like the records mailed to you, please include mailing cost of \$14.35 for a total of \$66.65.

If there are records you feel should be disclosed notwithstanding this response, or you would like to discuss your requests and this response further, please feel free to contact me at (510) 284-4030.

Very truly yours,

HARVEY E. LEVINE
City Attorney



BRONWEN LACEY
Senior Deputy City Attorney

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